



# HOUSE BILL 817: Strategic Transportation Investments

2013-2014 General Assembly

<b>Committee:</b>	Senate Finance	<b>Date:</b>	June 4, 2013
<b>Introduced by:</b>	Reps. W. Brawley, Torbett, Iler, Shepard	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	PCS to Sixth Edition H817-CSRWx-61		Committee Counsel

**SUMMARY:** *House Bill 817 (proposed committee substitute) enacts a new Strategic Prioritization funding plan governing use of Highway Trust Fund and Federal aid funds for State transportation construction and capital needs; phases out the Highway Fund secondary road construction program; requires Statewide prioritization for secondary unpaved road paving; provides that the Highway Fund is the sole source of funds for State aid to municipalities/Powell Bill funds, and holds harmless the amount allocated for that purpose; modifies the authorized Turnpike Authority project list; and authorizes up to three partnership agreements with private entities for DOT or Authority projects.*

*The proposed committee substitute makes the following changes:*

- *Page 1, line 20-21, and Page 2, line 8: moves highway toll routes from the Regional to Statewide projects tier.*
- *Page 2, line 32: clarifies that federally funded independent bicycle and pedestrian projects are authorized in the Division project tier.*
- *Page 5, line 48: clarifies that bicycle and pedestrian State funding limitation applies to independent bicycle and pedestrian improvement projects.*
- *Page 6, lines 3-6: provides that bicycle and pedestrian State funding limitation does not apply to projects for which funds have been obligated on or before October 1, 2013, for construction in State fiscal years 2012-2012, 2013-2014, or 2014-2015.*
- *Page 18, line 50 to page 19, line 2: clarifies that Powell bill funds may be used by a municipality for streets, sidewalks, bikeways, and greenways.*

## **BILL ANALYSIS:**

### **Strategic Prioritization Funding Plan for Transportation Investments**

**Section 1.1(a)** enacts a new formula governing use of State transportation construction funding, the "Strategic Prioritization Funding Plan for Transportation Investments". Highway Trust Fund revenues and Federal Aid funds are subject to the new formula, except for listed exemptions. Funds subject to the formula are to be distributed as follows: 40% to Statewide strategic mobility projects, 30% to Regional impact projects, and 30% to Division needs projects. Project types eligible for funds in each category are listed. The criteria to be used by DOT to prioritize each category are specified. A formula variance with readjustments, over a five year period, is specified. Incentives for local funding and tolling are included.

**Section 1.1(b)**, effective July 1, 2019, revises the calculation of the formula variance.

**Section 1.2** requires DOT to issue a revised draft TIP by January 1, 2015, reflecting the effect of the new formula.

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

## **Secondary Road Changes**

**Section 2.1** repeals a requirement that \$15 of each vehicle title application fee deposited in the Highway Trust Fund be used for secondary road paving.

**Section 2.2(a)**, effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

**Section 2.2(b)**, effective July 1, 2014, limits the secondary road program in the Highway Fund to maintenance and improvement.

**Section 2.3(a)**, effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

**Section 2.3(b)**, effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

**Section 2.4** repeals a provision exempting special appropriations for secondary road construction from statutory allocation formulas.

**Section 2.5** creates a secondary road unpaved road paving program in the Highway Fund, distributed based on a DOT Statewide prioritization.

**Section 2.6(a)**, effective July 1, 2013 for one year, continues the secondary road construction program in the Highway Fund for one year.

**Section 2.6(b)**, effective July 1, 2014, repeals the secondary road construction program in the Highway Fund.

**Section 2.6(c)** continues a requirement that the DOT secondary road maintenance and improvement program be based on a uniformly applicable formula, and clarifies that it does not apply to paving of unpaved roads.

**Section 2.6(d)** appropriates \$15 million in nonrecurring funds in FY 2013-2014 from the Highway Fund to the secondary road construction program, and appropriates \$12 million in recurring funds in FY 2013-2014 from the Highway Fund for paving unpaved secondary roads.

**Section 2.7** repeals county prioritization of unpaved road projects, and reenacts a provision repealed by Section 2.9 of the bill that authorizes paving of a ROW of less than 60 ft, in some cases.

**Section 2.8(a)**, effective July 1, 2013 for one year, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners.

**Section 2.8(b)**, effective July 1, 2014, revises the statute governing submission of the secondary construction and unpaved road paving program to Boards of County Commissioners to reflect the limitation of the process to only paving unpaved secondary roads, beginning July 1, 2014. In counties where unpaved secondary road paving is programmed for paving, the Department will be required to annually submit a list of roads programmed for paving to the board of county commissioners.

**Section 2.9** repeals provisions for use of the Highway Trust Fund allocation to secondary road paving. Part of this repealed statute, authorizing paving of a ROW of less than 60 ft. in some cases, is reenacted in Section 2.7 of the bill. The Highway Trust Fund percentage allocation to secondary road paving is repealed in Section 4.8 of the bill.

## **State Aid to Municipalities/Powell Bill Changes**

**Section 3.1** changes the amount of Highway Fund revenues allocated for State aid to municipalities for city streets, known as Powell Bill funds, from 1¾ ¢/gallon of the motor fuels tax to 10.4% of the net

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amount produced during the fiscal year. Section 4.8 of the bill repeals the Highway Trust Fund supplement to Powell Bill funds.

**Section 3.2** is a conforming change repealing a requirement that the Highway Trust Fund supplement for city streets (Powell Bill funds) be distributed in accordance with the Powell Bill statute.

**Section 3.3** changes the authorized uses of Powell Bill funds to allow their use for greenways and bikeways.

**Section 3.4** authorizes use of Powell Bill funds as a match for federal funds for bicycle and pedestrian improvement projects, as well as for streets, sidewalks, greenways, bikeways, or TIP projects in the municipal limits.

**Section 3.5** directs the Department to collect lane mile data from all municipalities eligible for Powell Bill funds, and report to the General Assembly by December 1, 2013.

## **Conforming Changes**

**Section 4.1** amends the statute governing the disposition of the Highway Use Tax, to repeal a transfer from the Highway Trust Fund to the Mobility Fund.

**Section 4.2** updates a statutory reference in the statute setting out the powers of DOT.

**Section 4.3** repeals the 1989 distribution formula for funds expended for Highway Trust Fund Intrastate projects, and specified State and federal aid funds expended under the TIP.

**Section 4.4** revises a statutory and project reference in the law authorizing limited use of the Transportation Official Corridor Map Act by the Wilmington MPO.

**Section 4.5** amends statute governing local participation in a State transportation project to repeal provisions prohibiting disadvantage to other projects, and limiting DOT funding in exchange for the participation.

**Section 4.6** updates a statutory reference in the Turnpike Authority statutes.

**Section 4.7** repeals a definition of the Intrastate system.

**Section 4.8** repeals expired provisions concerning use of Highway Trust Fund cash balances; modifies the amount of the Highway Trust Fund revenues that may be used for administration from 4.8% to the amount appropriated by law; repeals statutory percentage allocations of Highway Trust Fund revenues to intrastate projects, urban loops, State-aid for city streets (Powell Bill), and secondary road paving; and repeals gap funding for the mid Currituck bridge and Garden Parkway projects.

**Section 4.9** repeals an expired limitation on funding obligations of the Highway Trust Fund.

**Section 4.10** repeals expired provision concerning use of specified federal funds for the Intrastate system and urban loops.

**Section 4.11** repeals description of the Intrastate system.

**Section 4.12** repeals the Highway Trust Fund project list.

**Section 4.13** repeals requirement that the Highway Trust Fund allocation for urban loops can only be used on urban loops.

**Section 4.14** repeals an annual DOT reporting requirement on Highway Trust Fund projects.

**Section 4.15** repeals a statute that would have created a maintenance reserve after completion of the Intrastate system.

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**Sections 4.16, 4.17, and 4.18** repeal the North Carolina Mobility Fund.

## **Turnpike Authority Changes**

**Section 5.1** amends the Turnpike Authority's authorized projects list to authorize nine projects: Four of the projects are in existing law: portions of the Triangle Expressway (constituting 3 segment projects) and the Monroe Connector. Any additional project proposal by the Authority would require prior consultation with the Joint Legislative Commission on Governmental Operations. The five remaining authorized projects must meet the following conditions: two must be DOT-ranked top 35 projects, and either may be subject to a partnership agreement. Of the others, one may be subject to a partnership agreement. All five must be included in the local transportation plan, in the current State TIP, and toll projects must also be approved by the affected MPO and RPO.

**Section 5.2** authorizes DOT or the Turnpike Authority to enter into up to three partnership agreements with private entities for projects, subject to provisions for revenue sharing, excess revenue, an agreement time limit of 50 years from the beginning of toll operations, reporting to the General Assembly prior to entering into an agreement, and public hearings on applicable toll rates.

**Section 5.3** amends the powers of the Turnpike Authority to authorize it to retain and enforce tolls and fees.

**Section 5.4** authorizes the Turnpike Authority to use revenues derived from Turnpike Projects for design, reconstruction, rehabilitation, and replacement; for debt service, financing costs, return on investment, and other authorized uses under a partnership agreement; and for private activity bonds, and federal or State loans.

**Section 5.5** authorizes the Turnpike Authority to designate high-occupancy toll (HOT) lanes.

**Section 5.6** amends State law concerning collection of tolls on turnpike projects to clarify that tolls on vehicles in the custody of another person are the liability of that person; authorizes private entities to fix and collect pursuant to a partnership agreement with the Turnpike Authority; clarifies the Turnpike's Authority to provide alternate means to accept cash payments for tolls; and provides that toll processing fees cannot exceed the costs of collecting the unpaid toll.

**Sections 5.7** directs DOT to strive to expedite the federal environmental impact statement process to define the route for the Southeast Extension of the Triangle Expressway Turnpike Project.

**Section 5.8** directs the Joint Legislative Transportation Oversight Committee to closely monitor the progress of the Southeast Extension of the Triangle Expressway Turnpike Project.

## **Transition Study and Reporting Requirements**

**Section 6.1** requires DOT to submit reports to the General Assembly on its recommended formulas for ranking projects in the new Strategic Prioritization Plan on August 15, 2013, October 1, 2013, and January 1, 2014.

**Section 6.2** requires DOT to submit reports to the General Assembly on its transition to the new Strategic Prioritization Plan on March 1, 2014, and November 1, 2014.

## **EFFECTIVE DATE:**

**Section 7.1** provides that the bill generally becomes effective July 1, 2013, except for those sections noted above. The bill is effective only if the General Assembly appropriates funds in the Current Operations Appropriations Act of 2013 to implement the bill.